

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOSEPH MATTEW BORDERS,)	
)	CASE NO. 1:11cv1514
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
HARLEY J. LAPPIN, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Defendants.)	<u>ORDER</u> [Regarding ECF Nos. 37 ; 38]

On June 27, 2013, Magistrate Judge George J. Limbert issued two Interim Reports (“R&Rs”) recommending that the motions to dismiss filed by Defendants United States of America and Nurse Shelley Kennedy ([ECF Nos 37](#); [38](#)) be granted, thereby dismissing *pro se* Plaintiff’s Federal Tort Claims Act claim without prejudice and dismissing the action against Nurse Kennedy.¹

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a report and recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a report and recommendation within 14 days of service. *Id.*; [Fed. R. Civ. Pro. 72\(b\)\(2\)](#). Failure to object within this time waives a party’s right to appeal the district court’s judgment. [Thomas v. Arn](#), 474 U.S. 140, 145 (1985);

¹ The United States filed a Motion to Dismiss Plaintiff’s Tort Claim ([ECF No. 28](#)), and Shelley Kennedy filed a Motion to Dismiss or Alternatively, Motion for Summary Judgment ([ECF No. 29](#)). Thereafter, the United States moved to substitute itself in place and stead of Kennedy ([ECF No. 30](#)), which was granted. Defendant Gary Bullock was added in Plaintiff’s Limited Amended Complaint ([ECF No. 22](#)) but had not been properly served. Mr. Bullock has now been served ([ECF No. 41](#)) and remains a Defendant in this action.

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United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt a magistrate judge's report without review. See *Thomas*, 474 U.S. at 149.

In the instant case, objections to the R&Rs were due by July 11, 2013. Plaintiff has not filed an objection. The Court finds that the R&Rs are supported by the record, and agrees with the magistrate judge's recommendation.

Accordingly, the Court adopts the Interim R&Rs (ECF Nos. 37; 38) in their entirety. Plaintiff's Federal Tort Claims Act is dismissed without prejudice. Plaintiff's claims against Nurse Kennedy are dismissed. The case will proceed against Defendant Bullock. Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

July 19, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge